

Environmental Protection Agency

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AUTHORITY: 42 U.S.C. 7545(c), (g) and (i), and 7625-1.

SOURCE: 50 FR 25577, June 20, 1985, unless otherwise noted.

Subpart A—Guam

§ 69.11 New exemptions.

(a) Pursuant to section 325(a) of the Clean Air Act ("CAA") and a petition submitted by the Governor of Guam ("Petition"), the Administrator of the Environmental Protection Agency ("EPA") conditionally exempts electric generating units on Guam from certain CAA requirements.

(1) A waiver of the requirement to obtain a prevention of significant deterioration ("PSD") permit prior to construction is granted for the electric generating units identified in the Petition as Cabras Diesel No. 1, the Tenjo project, and three 6-megawatt diesel generators to be constructed at Orote, with the following conditions:

(i) Each electric generating unit shall not be operated until a final PSD permit is issued for that unit;

(ii) Each electric generating unit shall not be operated until that unit complies with all requirements of its PSD permit, including, if necessary, retrofitting with the best available control technology ("BACT");

(iii) The PSD application for each electric generating unit shall be deemed complete without the submittal of the required one year of on-site meteorological data, however, EPA will not issue a PSD permit to such a unit prior to submission of such data or data which the EPA finds to be an equivalent and acceptable substitute; and

(iv) If any electric generating unit covered by this paragraph is operated either prior to the issuance of a final PSD permit or without BACT equipment, that electric generating unit shall be deemed in violation of this waiver and the CAA beginning on the date of commencement of construction of that unit.

(2) A waiver of the three nonattainment area requirements (a construction ban, the use of lowest achievable emission rate control equipment, and emission offset requirements) currently applicable to the Cabras-Piti

area is granted for electric generating units with the following conditions:

(i) A tower and meteorological station shall be constructed in the Cabras-Piti area by May 1, 1993;

(ii) Meteorological data shall be collected from the Cabras-Piti station which is sufficient to run air quality models both to demonstrate no current exceedences of the primary national ambient air quality standard for sulfur dioxide ("sulfur dioxide NAAQS"), as set forth at 40 CFR 50.4, and sufficient to submit a complete request for redesignation of the area to attainment;

(iii) Ambient sulfur dioxide monitors shall be installed and operated in accordance with the procedures set forth at 40 CFR part 58, the PSD air monitoring requirements, and any additional monitoring requested by EPA to verify the efficacy of the intermittent control strategy ("ICS") of fuel switching;

(iv) Within three years from the effective date of this waiver, the Governor of Guam shall submit to the EPA a complete request that the Cabras-Piti area be redesignated to attainment for the sulfur dioxide NAAQS;

(v) Electric generating units to be constructed in the Cabras-Piti area must submit applications for PSD permits as though the area had been redesignated to attainment for the sulfur dioxide NAAQS;

(vi) The Cabras-Piti area electric generating units shall comply with the fuel switching ICS described in paragraph (a)(3)(i) of this section;

(vii) If the collected data and air quality analysis does not demonstrate to the EPA's satisfaction that there are no current or likely future exceedences of the sulfur dioxide NAAQS, the EPA will so notify the Governor of Guam;

(viii) Within six months of such notification, the Governor of Guam shall submit to the EPA an implementation plan which includes a schedule of emission reductions and/or control measures that will ensure achievement of the sulfur dioxide NAAQS within one year of submission of the implementation plan; and

(ix) If the Governor of Guam fails to submit an implementation plan in a timely fashion, or if EPA disapproves

that implementation plan, all electric generating units subject to the fuel switching ICS described in paragraph (a)(3)(i) of this section shall be fueled exclusively with low sulfur fuel.

(3) A waiver of the prohibition on the use of the ICS of fuel switching is granted for electric generating units with the following conditions:

(i) The protocol to be followed for the ICS of fuel switching for electric generating units shall be the one set forth in a separate EPA document entitled Cabras-Piti Area Intermittent Control Strategy; and

(ii) This protocol may be modified by the EPA to protect against exceedences of the sulfur dioxide NAAQS and to accommodate additional electric generating units.

(b) The waiver will be periodically reviewed (at intervals no longer than three years) and, as deemed appropriate by the Administrator, can be modified or terminated at any time through rulemaking procedures.

(c) Pursuant to Section 325(a) of the CAA and a petition submitted by the Governor of Guam on July 14, 1995 ("1995 Petition"), the Administrator of EPA conditionally exempts Guam Power Authority ("GPA") from certain CAA requirements.

(1) A waiver of the requirement to obtain a PSD permit prior to construction is granted for the electric generating unit identified in the 1995 Petition as Cabras Unit No. 4, with the following conditions:

(i) Cabras Unit No. 4 shall not operate until a final PSD permit is received by GPA for this unit;

(ii) Cabras Unit No. 4 shall not operate until it complies with all requirements of its PSD permit, including, if necessary, retrofitting with BACT;

(iii) If Cabras Unit No. 4 operates either prior to the issuance of a final PSD permit or without BACT equipment, Cabras Unit No. 4 shall be deemed in violation of this waiver and the CAA beginning on the date of commencement of construction of the unit.

(2) A waiver of the requirement to obtain a PSD permit prior to the operation of the unit identified in the 1995 Petition as Cabras Unit No. 3 is granted subject to the following conditions:

(i) The protocol to be followed for the ICS of fuel switching for electric generating units shall be modified to require the use of fuel oil with a sulfur content of 2.00 percent or less during offshore wind conditions. This fuel shall be fired in Cabras Power Plant Units Nos. 1 through 3 and in Piti Power Plant Units Nos. 4 and 5.

(ii) Cabras Unit No. 3 shall operate in compliance with all applicable requirements in its permits to construct and to operate as issued by Guam Environmental Protection Agency.

(iii) The waiver provisions allowing Cabras Unit No. 3 to operate prior to issuance of a PSD permit shall expire on August 15, 1996, or upon the receipt by GPA of a PSD permit for Cabras Unit No. 3, whichever event occurs first.

(3) On or before October 15, 1995, GPA shall submit to EPA, Region IX, a report concerning the operation of Cabras Unit No. 3 and the construction of Cabras Unit No. 4. The report shall contain:

(i) A summary of GPA's conclusions from its wind tunnel study;

(ii) A description of the alternatives available to assure compliance with all air quality requirements, including PSD requirements, during the operation of Cabras Units Nos. 3 and 4;

(iii) A description of the alternative GPA chooses to assure compliance with all air quality requirements, including PSD requirements, during the operation of Cabras Units Nos. 3 and 4; and

(iv) A plan of implementation by GPA.

(d)(1) Pursuant to Section 325(a) of the CAA and a petition submitted by the Governor of Guam on February 11, 1997 ("1997 Petition"), the Administrator of EPA conditionally exempts Piti Power Plant Units No. 8 and No. 9 from certain CAA requirements.

(2) A waiver of the requirement to obtain a PSD permit prior to construction is granted for the electric generating units identified in the 1997 Petition as Piti Units No. 8 and No. 9 (two 45 megawatt baseload diesel electric generators and associated waste heat recovery boilers with a steam generator), with the following conditions:

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(i) Piti Units No. 8 and No. 9 shall not operate until final PSD permits are received for these units;

(ii) Piti Units No. 8 and No. 9 shall not operate until they comply with all requirements of their PSD permits, including, if necessary, retrofitting with BACT;

(iii) If either Piti Units No. 8 or No. 9 operate either prior to the issuance of a final PSD permit or without BACT equipment, the Piti Unit(s) shall be deemed in violation of this waiver and the CAA beginning on the date of commencement of construction of the unit(s).

[58 FR 43043, Aug. 12, 1993, as amended at 60 FR 48038, Sept. 18, 1995; 62 FR 44416, Aug. 21, 1997]

§ 69.12 Continuing exemptions.

(a) Effective on the expiration date of the initial eighteen month exemption provided under section 325(b) of "the Act", the Administrator of the Environmental Protection Agency (EPA) exempts the Guam Power Authority's two sixty-six megawatt oil-fired steam units which comprise the Cabras Power Plant from sulfur dioxide requirements associated with New Source Performance Standards (NSPS) under section 111 of the Clean Air Act and from the related NSPS limitation on sulfur dioxide emissions contained in the Guam SIP.

(b) The exemption will be reviewed at intervals and upon occasions to be specified by EPA (not longer than 2 years), allowing EPA to determine whether the factual circumstances upon which it is based, including commitments made by GPA in the application for extension and the continuing attainment of the National Ambient Air Quality Standards (NAAQS) for Sulfur Dioxide, have changed. The commitments include reporting requirements specified by the Guam Environmental Protection Agency (GEPA), including but not limited to strict implementation of both the monitoring (wind direction and ambient SO₂ concentration) and fuel switching portions of the control strategy, reporting to GEPA of all applications of the strategy, and reporting to GEPA of laboratory analyses of percent sulfur in all new fuel stocks acquired GPA. A

finding by EPA that the source is not in compliance with the terms of the exemption will be grounds for enforcement of the terms of the exemption under section 113. A finding by EPA that factual circumstances have changed will be grounds for revocation of the exemption and enforcement of the underlying Clean Air Act requirements.

(c) It is a condition of this action that GPA provide to EPA a copy of any GPA application for rate changes or for commercial credit for construction or replacement of capital assets, simultaneously with submission of such application to the rate making authority or commercial credit institution. No later than the 90th day after a finding by EPA that the circumstances upon which the determination for continuing the exemption was originally made have changed, this exemption shall terminate unless within that time GPA submits information that it is taking all practicable steps to comply with NSPS and SIP requirements related to SO₂. EPA shall review such information under the procedures it has established and shall, as appropriate, extend or terminate the exemption.

§ 69.13 Title V conditional exemption.

(a) *Conditional exemption.* In response to a petition submitted by the Governor of Guam and pursuant to section 325(a) of the Clean Air Act (Act), the Administrator of the United States EPA (EPA) grants the following conditional exemptions:

(1) Guam is exempted from the requirement to develop, submit for approval, and implement an operating permit program under title V of the Clean Air Act on the condition that Guam meets the requirements of paragraph (b) of this section and subject to the provisions of paragraphs (c) through (e) of this section.

(2) Except for sources listed under paragraph (a)(4) of this section, owners or operators of sources located in Guam subject to the operating permit requirements of title V of the Clean Air Act are exempt from the requirement to apply for and obtain a title V operating permit, on the condition that the owner or operator of each such source